

## Purpose

To facilitate reconciliation of complaints arising from discrimination and/or unlawful harassment because of race, color, creed, national origin, sex (including sexual harassment), age disability or protected activity at the lowest possible organizational level.

## Policy

This policy and procedure provide individuals affected by discrimination and/or unlawful harassment, avenues for filing complaints which are free from bias, collusion, intimidation or reprisal. Unlawful harassment can be based on an individual's race, color, creed, national origin, sex, age disability, or protected activity. The Department will protect the confidentiality of harassment complaints to the extent possible.

Employees are encouraged to go to the harasser directly and tell the harasser that she/he wants the misconduct to stop.

In complaints of sexual harassment incidents involving accusation of "quid pro quo," criminal touching or acts that shock the conscience are to be referred immediately to the Utah Department of Transportation's Human Resource Office for a formal investigation.

In complaints of sexual harassment a formal investigation will be conducted by an investigative team which will consist of at least two individuals, preferably male and female who have undergone and completed training specifically designated for sexual harassment investigation.

Complaints of discrimination will be investigated in a timely manner, and appropriate corrective/disciplinary action will be taken as necessary to stop the discriminatory behavior up to and including termination.

## REPRISALS

Reprisals are prohibited against any employee who opposes a practice forbidden under this policy and procedure, or has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this policy and procedure or is otherwise engaged in protected activity.

Any act of reprisal toward the complainant, witnesses or others involved in the investigation shall be subject to corrective action or disciplinary action.

## Background

This policy and procedure has been developed in compliance with State and federal laws, the Department of Human Resource Management's Rules and for good business practice.

**Procedures****Complaints Because of Discrimination****05C-40D.1**

Prior to an informal review by senior leaders, an EEO Representative may handle possible problems of discrimination in the form of unlawful harassment if the complainant so chooses. If contacted by the complainant, the EEO Representative of that Region or Group may meet directly with the complainant and/or leader. The EEO Representative may inform co-workers and appropriate leaders (with the complainant's permission and without identifying the complainant), about potential problems and warn them of consequences (including disciplinary action) if inappropriate behavior is not discontinued.

**Responsibility:** Complainant

**Actions**

1. Submits the complaint to their leader, Region/Group Leader, designated Region or Group EEO Representative, or the Department's Human Resource Office or the Department of Human Resource Management.

**Responsibility:** Leader or Designated EEO Representative

2. Contacts the appropriate Region/Group Leader for the area and informs him/her of the complaint.
3. If the complaint is against a Region/Group leader or a senior leader, the leader or EEO Representative should immediately contact the Human Resource Director.

**STOP DO NOT GO ANY FURTHER UNTIL CALLING THE HUMAN RESOURCE OFFICE**

**Responsibility:** Region/Group Leader or designee

4. Contacts the Department's Human Resource Office to determine if an informal review can be conducted or if a formal review is needed.
5. If an informal review is agreed upon the region/group leader or designee conducts an informal review of the complaint in an attempt to reach a satisfactory solution, which may include corrective and/or disciplinary action. If the complaint is based on sex, the informal review group should include both male and female representation.
6. Presents findings to the Department's Human Resource Office for review and possible recommendations.

7. Prepares documentation toward resolution of the complaint. The resolution shall be documented in writing with the complainant, accused, and other critical parties that have a need to know, receiving copies and a copy is sent to the UDOT Human Resource Office, Human Resource Director, marked confidential.
8. If disciplinary action is recommended, the Human Resource Office must review all findings to determine if a formal review is necessary.

**FORMAL INVESTIGATION**

If satisfaction cannot be obtained through the informal means, the Human Resource Director is to be contacted. A formal investigation shall be initiated by trained investigators.

**Responsibility:** Investigators

9. Conduct an investigation of the alleged discrimination. The investigative team shall initiate an independent investigation into the allegations which need not be based upon the complainant's choice of action.
10. The investigative team may prepare and submit a report for the Executive Director of Transportation/designee which includes findings and recommendations.
11. If an investigation reveals evidence of criminal conduct, the investigators, may refer the matter to the Attorney General's Office or County Attorney as appropriate.
12. If an investigation of unlawful harassment/discrimination reveals that the accusations are unfounded, the findings shall be documented, the investigation terminated, and appropriate parties notified.

**Responsibility:** Executive Director/designee

13. Reviews complaint and makes necessary decision.

**Responsibility:** UDOT Human Resource Office

14. Separate confidential records of discrimination complaints shall be maintained and stored in the UDOT's Human Resource Office for a minimum of three (3) years. Information contained in the complaint file is classified as protected and will be released only by the Executive Director in compliance with the requirements of law.
15. Separate files related to discrimination complaints shall not be kept by leaders.